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10/707,051	11/18/2003	Michael J. ROSENDAUL	000297-203	1050

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EXAMINER

MONBLEAU, DAVIENNE N

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2878

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/707,051
Filing Date: November 18, 2003
Appellant(s): ROSENDAUL ET AL.

MAILED
JUN 13 2006
GROUP 2800

Thomas F. Marsteller, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/27/06 appealing from the Office action mailed 10/27/05.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,150,650

Bowen et al.

11-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 9, 11, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bowen et al. (U.S. 6,150,650).

Regarding Claims 1 and 11, *Bowen* discloses in claim 1 an electrical circuit unit comprising a voltage gain detection circuit unit operably connected to an image intensifier tube (10) for detecting multiple selected types of image intensifier tubes (claim 1 lines 6-11 and producing an output gain signal appropriate to the detected image intensifier tube (10) for controlling the gain of the detected image intensifier tube.

Regarding Claims 3 and 13, *Bowen* discloses in Figure 11 a variable adjustment circuit operably connected between the voltage gain detection circuit unit and the image intensifier tube (10) for providing a desired voltage level signal to the image intensifier tube. *Bowen* further discloses in column 1 that a variable resistor circuit may be used.

Regarding Claims 4 and 14, *Bowen* discloses in column 7 lines 64-67 that the variable resistor circuit further includes a manual gain adjustment means for manually adjusting the desired voltage level signal to the image intensifier (10) by a user. (See also claim 1 lines 8-11).

Regarding Claim 9, *Bowen* discloses in column 4 lines 48-60 and column 5 lines 2-10 a DC-to-DC voltage step-up converter circuit unit for providing a desired power supply voltage signal to the image intensifier tube (10).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 5-8, 10, 12, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowen.

Regarding Claims 2 and 12, *Bowen* does not teach a voltage bias circuit. However, since *Bowen* is controlling the gain of the image intensifier tube, there must be a circuit component that is sending a voltage to the tube in order to control the gain of the tube. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a particular device, such as a voltage bias circuit unit, for its suitability with the other circuit components and desired control of the electronic devices.

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Regarding Claims 5 and 15, *Bowen* does not teach an amplifier circuit. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an amplifier in *Bowen* to increase the strength of the image intensifier tube (10) output signal.

Regarding Claims 6 and 16, *Bowen* teaches in Figure 2 gain limiting circuit elements (160 and 170), but does not teach a current limiting circuit unit. However, both devices result in limiting the output signal of the image intensifier tube (10) and thus serve a similar function. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a particular circuitry element in *Bowen*, for its suitability with the other circuit components and desired control of the electronic devices.

Regarding Claims 7 and 17, *Bowen* teaches in Figure 11 a variable adjustment circuit operably connected between the voltage gain detection circuit unit and the image intensifier tube (10) for providing a desired voltage level signal to the image intensifier tube. *Bowen* further teaches in column 1 that a variable resistor circuit may be used.

Regarding Claims 8 and 18, *Bowen* teaches in Figure 11 a variable adjustment circuit operably connected between the voltage gain detection circuit unit and the image intensifier tube (10) for providing a desired voltage level signal to the image intensifier tube. *Bowen* further teaches in column 1 that a variable resistor circuit may be used. *Bowen* does not teach an amplifier circuit. It would have been obvious, however, to one of ordinary skill in the art at the time of the invention to use an amplifier in *Bowen* to increase the strength of the image intensifier tube (10) output signal.

Regarding Claim 10, *Bowen* teaches a DC to DC voltage step-up converter circuit, but does not teach that it boosts the voltage of the power source by two times. It would have been

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obvious, however, to one of ordinary skill in the art at the time of the invention to boost the voltage of the power source by a particular amount depending on what voltage was required to operate the image intensifying tube (10) circuitry and the desired output level of the image intensifying tube (10).

(10) Response to Argument

Rejection Under 35 U.S.C. § 102

Applicants argue (Brief, page 10) that *Bowen* does not disclose that a single night vision device may be adapted to use multiple image intensifier tube types as replacements for the original equipment tube. This is not persuasive for two reasons. First, the claim language requires “detecting multiple selected types of image intensifier tubes” and does not require that the tubes be different types. Thus, the Examiner’s interpretation that the “selected tubes” could be selected from the same types of tubes is not unreasonable. Second, the Examiner maintains that *Bowen* does disclose a single device that may use multiple image intensifier tube types. *Bowen* states (column 2, lines 24-32) a night vision device with “the ability to replace or interchange tubes.” This states that a tube may be replaced with a same type of tube or interchanged with a different type of tube. *Bowen* further states (column 2, lines 45-55) a night vision device where one intensifier tube can be substituted for another. Lastly, *Bowen* teaches (column 3, lines 35-50) that the MX-10160 tube is used as an example (i.e. this does not limit the night vision device to this one type of tube) and that the factory-preset tubes are interchangeable within the system. Therefore, *Bowen* provides many examples that meet the claim limitation of a night vision system using “selected types of image intensifier tubes”.

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Regarding claims 3 and 13, Applicants do not offer any additional substantive arguments. Nonetheless, the Examiner maintains that *Bowen* discloses (Figure 11) a variable adjustment circuit operably connected between the voltage gain detection circuit unit and the image intensifier tube (10) for providing a desired voltage level signal to the image intensifier tube. *Bowen* further discloses (column 1, lines 27-35; column 3, lines 54-56; column 7, lines 64-67) that a variable resistor circuit may be used.

Regarding Claims 4 and 14, Applicants do not offer any additional substantive arguments. Nonetheless, the Examiner maintains that *Bowen* discloses (column 7 lines 64-67) that the variable resistor circuit further includes a manual gain adjustment means for manually adjusting the desired voltage level signal to the image intensifier (10) by a user. (See also claim 1 lines 8-11).

Regarding Claim 9, Applicants do not offer any additional substantive arguments. Nonetheless, the Examiner maintains that *Bowen* discloses (column 4 lines 48-60; column 5 lines 2-10) a DC-to-DC voltage step-up converter circuit unit for providing a desired power supply voltage signal to the image intensifier tube (10).

Rejection Under 35 U.S.C. §103

Regarding claims 2, 5-8, 10, and 15-18, Applicants do not offer any additional substantive arguments other than those previously argued. (See the Examiner's response to the 35 U.S.C. § 102 rejection above).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DNM

Danielle Monblanc

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